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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,642	12/20/2000	Tsuyoshi Kayanoki	Q62426	4749

7590 08/16/2004

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WASHINGTON, DC 20037

EXAMINER

KRUER, KEVIN R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/739,642

Applicant(s)

KAYANOKI ET AL.

Examiner

Kevin R Kruer

Art Unit

1773

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.Claim(s) objected to: NONE.Claim(s) rejected: 2-5, 12-15, 17, 26 and 27.Claim(s) withdrawn from consideration: 1, 7-11 and 19-25.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: Notice of reference cited attached hereto

Advisory Action

Applicant's arguments filed August 5, 2004 have been fully considered, but are not persuasive.

Applicant argues that Tsunashima in view of Osborn fails to render the claimed invention obvious. Specifically, Applicant argues that "molding" an article changes the "physical state" of the article. Applicant fails to explain what is meant by a change in "physical state." Herein, the examiner understands "physical state" to refer to the physical properties of the article. In support of the argument, Applicant points to the working and comparative examples in the specification. According to applicant, the examples demonstrate that the haze and surface roughness properties of extruded films change when the films are molded. However, said argument fails to demonstrate that molding a product inherently results in a materially different product than extruding the product. To the contrary, Tsunashima in view of Osborn demonstrates that an article with the claimed surface roughness and haze can be obtained through extrusion. Applicant's examples also demonstrate that an article with the claimed haze and surface roughness may be formed by extrusion in that the film utilized to form the molded product meets the claimed haze and surface roughness limitations. Furthermore, Applicant's comparative examples demonstrate that molding does not "inherently" result in superior haze or surface roughness properties. Applicant provides no further data with regard to the physical properties of the claimed film. Thus, the record as a whole contradicts any argument that a

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molded article will inherently exhibit different physical properties than the article taught by the prior art.

The examiner also notes that Comparative examples 1 to 5 do not represent the closest prior art. Therefore, any further argument and/or discussion with regard to said comparative examples are moot.

Applicant argues that Tsunashima does not refer to a molded article having a surface roughness of not more than $2\mu\text{m}$ obtained by thermoforming an extruded film having a surface roughness below $3\mu\text{m}$. The examiner never took the position that Tsunashima contained such a teaching. Tsunashima was relied upon to teach a three-layered laminated film comprising a center layer of crystalline low molecular weight polyolefin, and two surface layers wherein the surface layer had a surface roughness below $3\mu\text{m}$ (col 7, lines 20+). The examiner acknowledged that the laminate was not molded but took the position that the claimed process of making the product does not patentably distinguish the product from the prior art. Applicant has failed to show that the claimed process limitations inherently distinguish the claimed product from the prior art. Therefore, the rejection is maintained.

Applicant further argues that a thermoformed article should be materially distinguished from a corresponding extruded film. The examiner respectfully disagrees. An extruded film is a "thermoformed" article. Specifically, "thermoformed" refers to any product that is shaped through the use of heat. Since the polymer of Tsunashima is heated during extrusion, it is understood to be a thermoformed product.

Tsunashima teaches that an extruded film having a surface roughness below 3 μ m has merits on drawability. Applicant argues that said teaching distinguishes the claimed invention from Tsunashima because thermoformed articles are generally not further drawn. The examiner initially notes that the extruded film of Tsunashima is a thermoformed article. Furthermore, the examiner notes that said argument fails to distinguish the claimed invention from the teaching of Tsunashima because applicant has failed to show how the teaching of "drawability" demonstrates that Tsunashima in view of Osborn fails to meet the claim limitations of the pending claims.

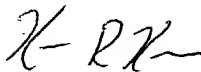
The claimed invention is further distinguished from the applied art, according to applicant, because it exhibits unexpected results. Specifically, Applicant notes that pages 7 and 8 of the specification disclose that the claimed surface roughness and haze "impart more superior surface glossiness and deeper appearance to the laminated molded article. In addition in a two layered thermoformed article comprising a transparent layer and a printed or colored layer, a transparent layer having the above ranges of total haze and inner haze impart more superior surface glossiness and deeper appearance of print or color to the laminated molded article." Neither result is considered unexpected. It is well established in the art that surface roughness will affect a material's glossiness. Furthermore, as noted in US 6,284,355 (col 7, lines 58+), the haze of an olefin film will affect the deep appearance of said film. The examiner also notes that the invention has not been compared to the closest prior art. Thus, Applicant's arguments are not persuasive.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Kruer whose telephone number is 571-272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on 571-272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin R. Kruer
Patent Examiner-Art Unit 1773


D. S. NAKARANI
PRIMARY EXAMINER, Acting SPE